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INTERNATIONAL BUSINESS MACHINES
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re IBM Subpoena in the matter of:

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

vs.

PLATFORM SOLUTIONS, INC.

Defendant.

CASE NO. 5:07-mc-80174-JW PVT

Underlying action pending in the United
States District Court for the Southern District
of New York, CASE NO. CV 06-13565 SCR

**DECLARATION OF KATHERINE
WEALL IN SUPPORT OF PLAINTIFF
IBM'S OPPOSITION TO HEWLETT-
PACKARD'S MOTION TO MODIFY
SUBPOENA AND FOR A PROTECTIVE
ORDER**

Date: October 23, 2007

Time: 10:00 a.m.

Court: Courtroom 5

Before: The Honorable Patricia V. Trumbull

I, Katherine Weall, declare as follows:

1. I am a member of the bar of the State of New York, and an attorney with Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel for International Business Machines (“IBM”) in this action and in the underlying litigation *International Business Machines Corporation vs. Platform Solutions, Inc.*, currently pending in the United States District Court for the Southern District of New York, CASE NO. CV 06-13565 SCR. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. Attached hereto as Exhibit A. is a true and correct copy of IBM’s amended complaint captioned *International Business Machines Corporation vs. Platform Solutions, Inc.* and filed in the United States District Court for the Southern District of New York, CASE NO. CV 06-13565 SCR.

3. Attached hereto as Exhibit B. is a true and correct copy of the answer and counter-claims of Platform Solutions, Inc. (“PSI”) filed in *International Business Machines Corporation vs. Platform Solutions, Inc.*

4. Attached hereto as Exhibit C. is a true and correct copy of PSI’s amended answer and counter-claims filed in *International Business Machines Corporation vs. Platform Solutions, Inc.*

5. Attached hereto as Exhibit D. is a true and correct copy of the Hoovers web page available at <http://premium.hoovers.com/subscribe/indepth/factsheet.xhtml?ID=trxhjkr> and last visited on October 1, 2007.

6. On April 13, 2007 Angelique Kaounis called me to state that all H-P documents should be considered highly sensitive, and to request that IBM advise all those who would be handling H-P documents of this. I agreed to do so. Ms. Kaounis also stated that H-P had

proposed revisions to the draft protective order IBM and PSI were negotiating in the underlying litigation. .

7. Attached hereto as Exhibit E. is a true and correct copy of an email from Angelique Kaounis, counsel for Hewlett-Packard Company ("H-P"), to me dated April 13, 2007.

8. On May 31, 2007, IBM served a Subpoena for the Production of Documents ("the Subpoena") on H-P pursuant to Fed. R. Civ. P. 45.

9. On June 5, 2007, Angelique Kaounis emailed me to request that I maintain the confidentiality of the Subpoena. Ms. Kaounis did not request an extension of time to respond or object to the Subpoena. Attached hereto as Exhibit F. is a true and correct copy of an email from Angelique Kaounis to me dated June 5, 2007.

10. Attached hereto as Exhibit G. is a true and correct copy of an email from Angelique Kaounis to me dated June 29, 2007.

11. Attached hereto as Exhibit H. is a true and correct copy of a letter from Richard Erwine, counsel for IBM, to Angelique Kaounis dated July 3, 2007.

12. Attached hereto as Exhibit I. is a true and correct copy of an email from Angelique Kaounis to me dated July 5, 2007.

13. Attached hereto as Exhibit J. is a true and correct copy of a letter from Angelique Kaounis to Richard Erwine dated July 12, 2007.

14. Attached hereto as Exhibit K. is a true and correct copy of a letter from Richard Erwine to Angelique Kaounis July 17, 2007.

15. Attached hereto as Exhibit L. is a true and correct copy of a letter from Angelique Kaounis to me dated July 23, 2007.

16. Attached hereto as Exhibit M. is a true and correct copy of an email from me to Angelique Kaounis dated August 17, 2007.

17. Attached hereto as Exhibit N. is a true and correct copy of an email from Angelique Kaounis to me dated August 24, 2007.

18. Toward the end of August 2007, I telephoned Angelique Kaounis and proposed that, in the interest of moving discovery forward, H-P produce its documents on condition that only outside counsel be permitted to view them, pending resolution of this motion by the Court.

19. Attached hereto as Exhibit O. is a true and correct copy of an email from Angelique Kaounis to me dated September 7, 2007.

20. Attached hereto as Exhibit P. is a true and correct copy of an email from me to Angelique Kaounis dated September 11, 2007.

21. Attached hereto as Exhibit Q. is a true and correct copy of an email from Eric Raines to me dated September 17, 2007.

22. Attached hereto as Exhibit R. is a true and correct copy of an email from Angelique Kaounis to me dated September 28, 2007, and another email from Ms. Kaounis to me dated September 29, 2007.

23. I have on numerous occasions since July 5, 2007 attempted to schedule a meet and confer with Angelique Kaounis by requesting a time certain when she will be available for discussion. However Ms. Kaounis has not returned my telephone calls, nor has she provided a time certain when she will be available.

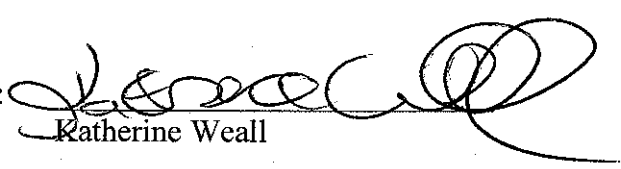
24. Attached hereto as Exhibit S. is a true and correct copy of the protective order entered in the underlying litigation *International Business Machines Corporation vs. Platform Solutions, Inc.*

25. H-P has an office in Germany that maintains a relationship with Lufthansa, and an office in Italy that maintains a relationship with Banca Delle Marche. Both Lufthansa and Banca Delle Marche are customers of PSI.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed this 2nd day of October, 2007 at New York, New York.

By:


Katherine Weall